

Director of the USPTO/Commissioner of Patents

REMARKS

Claims 1 to 28 are pending in the application.

In response to the restriction requirement dated April 23, 2007, Applicants hereby elect, with traverse, the subject matter of Group II of invention, i.e. claims 12 to 28.

In further compliance with the Examiner's requisition, Applicants further elect, still with traverse, the single nucleotide sequence coding SEQ ID NO: 14.

As the Examiner will note, claims 29 to 32 have been cancelled without prejudice.

The Examiner is of the opinion that there are a number of groups of invention within the present application as these groups do not share a special technical feature. In this respect, Applicants respectfully disagree with the Examiner's assessment. The common technical feature linking all the claims as submitted herewith, including those currently amended, is believed to be the sequence as set forth in formula 1. None of the prior art cites or suggests a sequence as defined in formula 1. Therefore, it is believed that such sequence is the special technical feature which is inventive over the prior art, thereby providing unity of invention within this application. At the very least, should the Examiner disagree, at the very least the Examiner should recognize that the nucleotide sequence which encodes SEQ ID NO: 14, as now elected according to the Examiner's request, is also inventive over the prior art of record. Therefore, this sequence should, at the very least, be the common special technical feature linking the various groups.

In the justification of the various groups of invention, the Examiner alleges that Groups I and II contain special technical features which are biologically, chemically and

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structurally different products. According to the PCT Rules, nowhere in Rule 13.1 and 13.2 is there a requirement that they relate to identical products. All that Rules 13.1 and 13.2 state is that there must be a special technical feature linking the groups, which Applicants believe to have now been clearly established.

Further, the Examiner, again in the justification of the various groups of invention, on page 2 states that the searching of the invention of Groups I and II together would impose a serious burden on the Examiner. In this respect, the criteria of the burden of search for the Examiner is a U.S. criteria which is not found anywhere in PCT Rule 13.1 or 13.2 and, therefore, should not be of concern with respect to this application. In any case, with the specific elected sequence, the Examiner should now be relieved of her serious burden. Furthermore, the Examiner alleges that Callaway *et al.* teach a polypeptide as described in Group I, without specifically identifying one. In this respect, it is submitted that nowhere in Callaway *et al.* is there a sequence as set forth in Formula I. If such anticipating sequence really exists, the Examiner should bring it forward in justification of her rejection. In absence of such sequence in Callaway *et al.* and in light of the amendments made to the claims, it is now respectfully submitted that the sequence as defined in formula 1 is the common technical feature linking all the groups.

Reconsideration and withdrawal of the Examiner's restriction requirement is earnestly solicited and prosecution on the enclosed set of claims, including claims 1 to 28, is earnestly solicited.

Applicants believe that no fees are due with the filing of this Preliminary Amendment. However, the Commissioner is hereby authorized to charge any additional

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fees that may be due, or credit any overpayment, to Deposit Account No. 19-5113,
Reference No. 2139-22US.

Applicants submit that no new matter has been added by the present amendment.

In the event that there are any questions concerning this amendment or the
application in general, the Examiner is respectfully urged to telephone the undersigned so
that prosecution of this application may be expedited.

Respectfully submitted,

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